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7 WELLS FARGO BANK, N.A. and
WELLS FARGO & CO.

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 VERONICA GUTIERREZ, TIM FOX,
11 ERIN WALKER and WILLIAM SMITH,
12 as individuals, and on behalf of all others
similarly situated,

13 Plaintiffs,

14 v.

15 WELLS FARGO & COMPANY; WELLS
16 FARGO BANK, N.A.; and DOES 1 through
125,

17 Defendants.

18 Civil Case No.: CV-07-5923 WHA

19 REQUESTS FOR ADMISSION
20 FROM WELLS FARGO BANK,
21 N.A. TO PLAINTIFF WILLIAM
22 SMITH (SET TWO) [Nos. 5-8]

23 REQUESTING PARTY: Defendant WELLS FARGO BANK, N.A.

24 RESPONDING PARTY: Plaintiff WILLIAM SMITH

25 SET NO.: Two (Nos. 5-8)

26 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant Wells
27 Fargo Bank, N.A. hereby requests that plaintiff William Smith respond to the following requests
28 for admission, under oath and in writing. Such response shall be produced at the offices of
Covington & Burling LLP, One Front Street, San Francisco, CA 94111, within 30 days, or on
such other day as may be directed by the Court.

REQUESTS FOR ADMISSION FROM WELLS FARGO
BANK, N.A. TO PLAINTIFF WILLIAM SMITH (SET TWO)
[Nos. 5-8]

Civil Case No.: CV-07-5923 WHA

DEFINITIONS

1. The term "YOU" includes plaintiff William Smith, his agents and representatives, and/or all other persons acting on his behalf.

2. "DEBIT TRANSACTIONS" means all items listed on your monthly account statement for the period(s) in question in the sections entitled "Withdrawals" (including the subsections for "Checks" and "Other withdrawals") *except for* any Overdraft Fees, Continuous OD Level 2 Charges, NSF Returned Item Fees, or other Wells Fargo Bank fees.

3. "CREDIT TRANSACTIONS" means all items listed on your monthly account statement for the period(s) in question in the section entitled "Deposits."

4. "GENUINE TRANSACTION" means a DEBIT or CREDIT TRANSACTION that you initiated and performed in the expectation that the transaction amount would at some point in time be added (for CREDIT TRANSACTIONS) or subtracted (for DEBIT TRANSACTIONS) from your account balance. (For purpose of this definition and these requests, the specific date and/or time when you expected the transaction to be added or subtracted from your account is immaterial.)

INSTRUCTIONS

1. The answer to any request for admission shall fairly and completely meet the substance of the requested admission. If your answer to any admission is qualified in any particular way, then you must state the facts of such qualification with particularity. Lack of knowledge or information is an insufficient basis for failure to answer fully a request for admission, unless you also state that you have made a reasonable inquiry and the information known or readily obtainable by you is insufficient to enable you to admit or deny.

2. Where an objection is interposed to any request for admission, the objection shall state with specificity all bases and grounds for the objections. A request for admission may not be objected to solely on the ground that the matter inquired into presents a genuine issue for trial.

3. If, in responding to any of these requests for admission, you encounter any ambiguity in construing either the request, a definition, or an instruction, state with

1 specificity the matter deemed ambiguous and identify the construction chosen or used in
 2 responding to the request.

3 4. In construing these requests for admission, the singular shall be deemed
 4 to include the plural and vice versa, so as to make each request inclusive rather than exclusive.
 5 The word "and" shall be deemed to include the disjunctive "or" and vice versa, so as to make
 6 each request inclusive rather than exclusive. The past tense shall be construed to include the
 7 present and future tenses and vice versa, so as to make each request inclusive rather than
 8 exclusive. The terms "all," and "any," whether used separately or together, shall be interpreted
 9 to encompass all material, events, incidents, persons, or information responsive to the request in
 10 which those terms appear.

11 5. Any matter admitted is conclusively established unless the court on
 12 motion permits withdrawal or amendment of the admission.

13 6. If you fail to respond to these requests for admission within the time
 14 allowed, every matter set forth in these requests may be deemed admitted and conclusively
 15 established against you for the purposes of this action.

16 7. These requests for admission are continuing in nature so as to require
 17 supplemental response as provided by the Federal Rules of Civil Procedure in the event you
 18 obtain or discover additional relevant information between the time of the initial response to
 19 these requests for admission and the time of the final disposition of this action.

20 REQUESTS FOR ADMISSION

21 REQUEST FOR ADMISSION NO. 5:

22 YOU do not dispute in this case that all DEBIT TRANSACTIONS shown on
 23 your monthly account statement for the period ending July 17, 2007 (attached as Exhibit 1)
 24 reflect GENUINE TRANSACTIONS.

25 REQUEST FOR ADMISSION NO. 6:

26 YOU do not dispute in this case that all CREDIT TRANSACTIONS shown on
 27 your monthly account statement for the period ending July 17, 2007 (attached as Exhibit 1)
 28 reflect GENUINE TRANSACTIONS.

1 **REQUEST FOR ADMISSION NO. 7:**

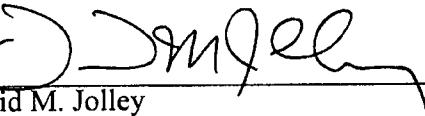
2 YOU do not dispute in this case the accuracy of the transaction amounts for any
3 DEBIT TRANSACTIONS shown on your monthly account statement for the period ending July
4 17, 2007 (attached as Exhibit 1).

5 **REQUEST FOR ADMISSION NO. 8:**

6 YOU do not dispute in this case the accuracy of the transaction amounts for any
7 CREDIT TRANSACTIONS shown on your monthly account statement for the period ending
8 July 17, 2007 (attached as Exhibit 1).

9
10 DATED: June 5, 2008

COVINGTON & BURLING LLP

11
12 By: 

13 David M. Jolley
14 Attorneys for Defendants
15 WELLS FARGO BANK, N.A. and
16 WELLS FARGO & CO.

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EXHIBIT 1

Account Statement

June 16 through July 17, 2007

Account Number:

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REDACTED



1-1

WILLIAM CHARLES SMITH JR

REDACTED

Thank you for banking with Wells Fargo. For assistance, call: 1-800-TO-WELLS (1-800-868-3557), TDD number (for the hearing impaired only): 1-800-877-4833. Or write: WELLS FARGO BANK, N.A., P.O. BOX 6995, PORTLAND, OR 97228-6995.

Custom Management Checking

William Charles Smith Jr

Account Number:

REDACTED

Activity summary

Balance on 06/15	\$2,956.82
Deposits	18,351.37
Withdrawals	-21,160.94
.....	
Balance on 07/17	\$147.25

Before you leave on your next vacation, don't forget to get American Express Travelers Cheques. For more information and to purchase your Travelers Cheques, talk to your local banker. Or sign on to Wells Fargo Online Banking at wellsfargo.com and select "Account Services" then "Order Travelers Cheques".

Continued on next page

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CONFIDENTIAL
WFB-G 02330

June 16 through July 17, 2007

Account Number:

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REDACTED**Activity detail****Deposits**

Date	Description	\$ Amount
06/21	Online Transfer Ref #IBE256Flpz From Business Checking 3242166Xxx On 06/21/07	486.00
06/22	ATM Deposit -06/22 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	4,208.76
06/29	ATM Deposit -06/29 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	3,485.45
07/03	Online Transfer Ref #IBEMJJC2Cw From Checking 0221724Xxx On 07/03/07	100.00
07/05	Online Transfer Ref #IBEJMGXN4M From Checking 0221724Xxx On 07/04/07	100.00
07/06	ATM Deposit -07/06 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	5,001.81
07/11	Online Transfer Ref #Ibefqfwxsc From Checking 0221724Xxx On 07/11/07	100.00
07/13	ATM Deposit -07/13 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	4,619.35
07/13	Online Transfer Ref #Ibeqflkshq From Checking 0221724Xxx On 07/13/07	100.00
07/16	Online Transfer Ref #Ibethncyps From Business Checking 6706972Xxx On 07/16/07	100.00
07/17	Online Transfer Ref #IBEQFLXX9X From Checking 0221724Xxx On 07/17/07	50.00
Total deposits		\$18,351.37

Withdrawals**Other withdrawals**

Date	Description	\$ Amount
06/18	Online Transfer Ref #IBEMJH56Ck To Checking 0221724Xxx On 06/17/07	1,200.00
06/18	Online Transfer Ref #IBETBL5Qlk To Business Checking Inv Sc 044	1,115.00
06/18	ATM Withdrawal -06/17 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	200.00
06/18	Check Crd Purchase 06/16 U-Store-It-475909-794-0560Ca 446024XXXXXX5000 169740012034598 ?MCC=4225 121042882DA	103.00
06/18	POS Purchase -06/17 Mach ID 000000 Arco Paypoint Arco Paypoyucaipa Ca 5000 ?MCC=5541 121042882DA	53.21
06/18	POS Purchase -06/16 Mach ID 000000 Longs Drugs 054Longs Drugyucaipa Ca 5000 ?MCC=5912 121042882DA	41.45
06/18	Check Crd Purchase 06/15 Sport Shack Yucaipa Ca 446024XXXXXX5000 168740021280717 ?MCC=5941 121042882DA	27.01
06/18	Check Crd Purchase 06/17 California Sportservic Los Angeles Ca 446024XXXXXX5000 169740012767747 ?MCC=5947 121042882DA	16.00
06/19	POS Purchase -06/19 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	105.34
06/20	Online Transfer Ref #IBEMJH9Trp To Checking 0221724Xxx On 06/20/07	30.00
06/22	Check Crd Purchase 06/21 Vzwrlss-InvVw 800 9220204Ca 446024XXXXXX5000 173740009260165 ?MCC=4814 121042882DA	428.72
06/22	POS Purchase -06/22 Mach ID 000000 Arco Paypoint Arco Paypoyucaipa Ca 5000 ?MCC=5541 121042882DA	58.06
06/22	POS Purchase -06/22 Mach ID 000000 USA Cleaners Inusa Cleaneyucaipa Ca 5000 ?MCC=7216 121042882DA	50.80
06/22	POS Purchase -06/22 Mach ID 000000 Sou Ross Storessou Ross Syucaipa Ca 5000 ?MCC=5331 121042882DA	19.36
06/25	Online Transfer Ref #IBEBTC37Y3 To Savings Taxes	1,650.00

Continued on next page

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WFB-G 02331

June 16 through July 17, 2007

Account Number:

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REDACTED*Other withdrawals -continued*

Date	Description	\$ Amount
06/25	Online Transfer Ref #IBE7X9KF9W To Business Checking Inv Sc 047 048	1,280.00
06/25	Online Transfer Ref #IBE256L38Y To Checking 0221724Xxx On 06/23/07	800.00
06/25	Online Transfer Ref #IBE256L385 To Business Checking 6706972Xxx On 06/23/07	100.00
06/25	POS Purchase -06/23 Mach ID 000000 Stater Bros. #1Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	208.22
06/25	POS Purchase -06/24 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	66.09
06/25	POS Purchase -06/25 Mach ID 000000 Vons Store Vons Syucaipa Ca 5000 ?MCC=5411 121042882DA	37.40
06/29	ATM Withdrawal -06/29 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	40.00
07/02	Online Transfer Ref #IBEMJJ2Jsh To Business Checking Inv Sc 049 050	1,465.00
07/02	Online Transfer Ref #IBE25738Np To Checking Mortgage	1,000.00
07/02	Online Transfer Ref #BEQFKKQX4 To Checking 0221724Xxx On 06/30/07	500.00
07/02	POS Purchase -07/01 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	81.71
07/02	POS Purchase -06/29 Mach ID 000000 Stater Bros. #1Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	64.51
07/02	POS Purchase -06/30 Mach ID 000000 Radio Shack Radio Shacyucaipa Ca 5000 ?MCC=5732 121042882DA	53.84
07/02	POS Purchase -07/01 Mach ID 000000 Radio Shack Radio Shacyucaipa Ca 5000 ?MCC=5732 121042882DA	10.76
07/03	Check Crd Purchase 07/01 Go Wireless Yuc Og 241 Yucaipa Ca 446024XXXXXX5000 184740005907573 ?MCC=4812 121042882DA	234.39
07/03	POS Purchase -07/03 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	67.17
07/03	POS Purchase -07/03 Mach ID 000000 SY8 True Value SY8 True Vyucaipa Ca 5000 ?MCC=5251 121042882DA	28.00
07/05	Online Transfer Ref #IBE7Xbgxx To Business Checking 3242166Xxx On 07/05/07	50.00
07/05	Check Crd Purchase 07/02 Kaiser Pharmacy #163 Colton Ca 446024XXXXXX5000 185740009933398 ?MCC=5912 121042882DA	31.41
07/06	POS Purchase -07/06 Mach ID 000000 Vons Store Vons Syucaipa Ca 5000 ?MCC=5411 121042882DA	45.46
07/09	Online Transfer Ref #IBEJMH5Yjt To Business Checking Inv Sc 051 052	2,700.00
07/09	Online Transfer Ref #IBES2954Th To Savings Taxes	1,500.00
07/09	Online Transfer Ref #IBEBTD5M6Q To Checking 0221724Xxx On 07/07/07	500.00
07/09	ATM Withdrawal -07/07 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	60.00
07/09	Online Transfer Ref #IBE257NK84 To Business Checking 6706972Xxx On 07/07/07	50.00
07/09	POS Purchase -07/08 Mach ID 000000 Vons Store Vons Syucaipa Ca 5000 ?MCC=5411 121042882DA	149.16
07/09	POS Purchase -07/08 Mach ID 000000 SY8 True Value SY8 True Vyucaipa Ca 5000 ?MCC=5251 121042882DA	14.96
07/09	Check Crd Purchase 07/07 Hollywood Video Yucaipa Ca 446024XXXXXX5000 190740011296493 ?MCC=7841 121042882DA	11.82
07/09	POS Purchase -07/08 Mach ID 000000 Radio Shack Radio Shacyucaipa Ca 5000 ?MCC=5732 121042882DA	4.30
07/09	POS Purchase -07/08 Mach ID 000000 SY8 True Value SY8 True Vyucaipa Ca 5000 ?MCC=5251 121042882DA	3.11

Continued on next page

June 16 through July 17, 2007

Account Number:

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REDACTED*Other withdrawals -continued*

Date	Description	\$ Amount
07/10	POS Purchase -07/10 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	57.86
07/11	POS Purchase -07/11 Mach ID 000000 Vons Store Vons Syucaipa Ca 5000 ?MCC=5411 121042882DA	80.31
07/12	Check Crd Purchase 07/03 Tnt Fireworks #BBB0142 San Bernardin Ca 446024XXXXXX5000 193740007099671 ?MCC=5999 121042882DA	68.85
07/12	POS Purchase -07/12 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	24.76
07/13	Overdraft Fee	34.00
07/13	Overdraft Fee	34.00
07/16	Online Transfer Ref #IBEFQG55R9 To Business Checking Inv Sc 053 054	2,100.00
07/16	Online Transfer Ref #IBES29M7C2 To Savings 6324121XXX On 07/14/07	1,200.00
07/16	Online Transfer Ref #IBEX7PN3R4 To Checking 0221724XXX On 07/14/07	800.00
07/16	Online Transfer Ref #IBEJMHNCF6 To Business Checking Storage	100.00
07/16	ATM Withdrawal -07/14 Mach ID 8467Q 33644 Yucaipa Blvd Yucaipa Ca 5000	60.00
07/16	Recurring Transfer Ref #OPEJMHPH5G To Savings 6324121XXX	25.00
07/16	POS Purchase -07/15 Mach ID 000000 Kragen #1420 Kragen #Yucaipa Ca 5000 ?MCC=5533 121042882DA	107.71
07/16	POS Purchase -07/14 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	73.90
07/16	POS Purchase -07/14 Mach ID 000000 Kragen #1420 Kragen #Yucaipa Ca 5000 ?MCC=5533 121042882DA	35.51
07/16	POS Purchase -07/16 Mach ID 000000 Stater Bros. #2Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	25.00
07/16	POS Purchase -07/15 Mach ID 000000 Kragen #1420 Kragen #Yucaipa Ca 5000 ?MCC=5533 121042882DA	21.53
07/16	POS Purchase -07/15 Mach ID 000000 Kragen #1420 Kragen #Yucaipa Ca 5000 ?MCC=5533 121042882DA	7.32
07/17	POS Purchase -07/17 Mach ID 000000 Stater Bros. #1Stater Broyucaipa Ca 5000 ?MCC=5411 121042882DA	49.93
		\$21,160.94

Total other withdrawals

Daily balance summary

Date	\$ Balance	Date	\$ Balance	Date	\$ Balance
06/15	2,956.82	06/29	3,507.37	07/11	45.41
06/18	201.15	07/02	331.55	07/12	-48.20
06/19	95.81	07/03	101.99	07/13	4,603.15
06/20	65.81	07/05	120.58	07/16	147.18
06/21	551.81	07/06	5,076.93	07/17	147.25
06/22	4,203.63	07/09	83.58		
06/25	61.92	07/10	25.72		

Thank you for banking with Wells Fargo.

Account Balance Calculation Worksheet

- 1 Use the following worksheet to calculate your overall account balance.
- 2 Go through your register and mark each check, withdrawal, ATM transaction, payment, deposit or other credit listed on your statement. Be sure that your register shows any interest paid into your account and any service charges, automatic payments or ATM transactions withdrawn from your account during this statement period.
- 3 Use the chart below, list any deposits, transfers to your account, outstanding checks, ATM withdrawals, ATM payments or any other withdrawals (including any from previous months) which are listed in your register but not shown on your statement.

► **ENTER**
The NEW BALANCE shown on your statement \$ _____

► **ADD**

► **B** Any deposits listed in your register or transfers into your account which are not shown on your statement. \$ _____
\$ _____
\$ _____
\$ _____
TOTAL. \$ _____

► **CALCULATE THE SUBTOTAL**
(Add Parts A and B) \$ _____

► **SUBTRACT**

► **C** The total outstanding checks and withdrawals from the chart above -\$ _____

► **CALCULATE THE ENDING BALANCE**
(Part A + Part B - Part C)
This amount should be the same as the current balance shown in your check register \$ _____

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**In Case of Errors or Questions About Your Electronic
Transfers (Including Direct Deposit Advance or Deposit
Advance SM Transactions)**

Telephone us at the number printed on the front of this statement or write us at Wells Fargo Bank, P.O. Box 6995, Portland, OR 97228-6995 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

1. Tell us your name and account number (if any).
2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will credit your account for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation.

If the error concerns a Direct Deposit Advance or Deposit Advance transaction, you do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your Direct Deposit Advance or Deposit Advance transaction that are not in question. While we are investigating your question, we cannot report you as delinquent or take any action to collect the amount you question.

* The Deposit Advance service is not available in all states.

To Dispute or Report Inaccuracies in Information We Have Furnished to a Consumer Reporting Agency About Your Accounts

You have the right to dispute the accuracy of information that Wells Fargo Bank, N.A. has furnished to a consumer reporting agency by writing to us at Wells Fargo Servicing, P.O. Box 14415, Des Moines, IA 50306-3416. Please describe the specific information that is inaccurate or in dispute and the basis for the dispute along with all supporting documentation. If you believe the information furnished is the result of identity theft, please provide us with an identity theft report.



Are you interested in...

- Purchasing a home? Call us at 1-800-866-0743
- Getting a student loan? Call us at 1-888-945-5373
- Optimizing home equity? Call us at 1-866-259-0890



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